

Minimum Energy Efficiency Standards (MEES Policy)

Gravesham Borough Council

This document contains the Private Sector Housing MEES Policy and explains when and how we will use our enforcement powers.

Document Control

- Responsible Department: Private Sector Housing
- Responsible Manager: Service Manager (Housing Options)
- Revision Timeframe: Annually
- Version: 5th June 2024: Member Approval

Introduction

Energy efficiency and fuel poverty are key challenges across all tenures, and particularly impact lower income homes. Increases to the cost of fuel are placing a significant additional strain on household budgets, causing difficulties in paying bills, and so reducing energy costs and enabling warmer homes for low-income households has become a greater priority.

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 as amended in 2019 (referred to as the MEES Regulations) were introduced to tackle the least energy efficient properties. These are the properties with a F or G rating on their Energy Performance Certificate (EPC). A key action in the Housing Strategy 2024 is to improve the energy efficiency of private rented housing by taking action to raise Energy Performance Assessments (EPAs) of properties to E. This policy sets out how we will deliver this action, and how we will impose penalty notices in accordance with the regulations and Government guidance.

The EPC rating of a property cannot be considered in isolation. Even if a property meets an EPC rating of E, businesses will need to provide adequate heating and thermal comfort. Alongside the MEES Regulations, the Housing Act 2004 gives local authorities the power to enforce minimum housing standards using the Housing Health and Safety Rating System.

In this policy the term business is used to refer to landlords, leaseholders, freeholders, managing and letting agents with responsibility for the management of the property.

MEES Requirements

The focus of the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (MEES Regulations) is properties in the private rented sector, where there is an assured tenancy, a regulated tenancy or a domestic agricultural tenancy.

These properties must have a valid EPC and businesses must provide this for new and existing tenants. The EPC rating range is from A to G, with homes with an A rating being the most energy efficient, and those with a G being the least energy efficient. Properties can only be rented out if they have an energy performance certificate (EPC) rating of E or above unless a valid exemption has been registered online.

More information on MEES can be found on [GOV.UK's landlord guidance webpage](#).

The EPC rating of a property can be checked on [GOV.UK's find an energy certificate webpage](#) and EPCs are valid for ten years. EPCs must be made available for prospective tenants.

The EPC for each property includes recommendations for energy efficiency improvements, which will have a beneficial impact in making the home warmer and reducing fuel bills, along with estimated costs. These may include:

- Loft insulation (install and upgrade)
- Cavity wall insulation
- Boiler upgrades
- Thermostatic radiator valves
- Energy efficient light bulbs

Where businesses have undertaken works, they should check the EPC and consider renewal to ensure the upgrades are reflected in the ratings.

Duties of private landlords

Under the regulations, private landlords must either:

- Ensure that their rented properties are subject to an energy efficiency rating of E or above; or
- Register a valid exemption on the PRS Exemptions Register.

There are a number of valid exemptions available to private landlords, which are set out in the next section.

Funding

Businesses will need to self-fund or where possible seek third party funding to a maximum of £3,500 including VAT for improvements.

Certain households may be eligible for funding for energy efficiency improvements to a property that they rent, with permission from their landlord.

Advice for tenants

Where a tenant is renting a property with an EPC of F or G, they can seek help and advice from the Private Sector Housing Team.

Email private.housing@gravesham.gov.uk or Tel: 01474 337960

Exemptions

If the property has an F or G rating and the business believes that it cannot be improved to meet the minimum E rating, then an application must be made for an exemption from the MEES Regulations. The cost of energy efficiency improvements for F and G rated properties is currently capped at £3,500 including VAT. The reason for the exemption is required as well as proof of the exemption.

The exemption will need to be registered on [the National PRS Exemptions Register](#).

Registration is free of charge and exemption certificates are valid for five years.

Exemptions are defined as:

Relevant energy efficiency improvements undertaken – may be registered where all relevant energy efficiency improvements have been made within the cost cap of £3,500 including VAT but the property remains sub-standard.

High-cost exemptions – where the cost of making even the cheapest recommended improvement would exceed £3,500 including VAT.

Wall insulation exemption – may be registered where cavity, external or internal wall insulation has been recommended but a recognised expert provides a written report that such insulation would have a potentially negative impact on the fabric or structure of the property.

Third party consent exemption – may be registered where a third party e.g. a tenant, superior landlord, mortgagor, freeholder or planning authority refuses to consent to the energy efficiency improvements.

Devaluation exemption – may be obtained where a written report has been obtained from an independent surveyor on the RICS register of valuers advising that the recommended improvements would decrease the value of the property by more than five per cent.

Temporary exemption due to recently becoming a landlord – may be obtained where a person may have become a landlord suddenly and it would be inappropriate or unreasonable for them to be required to comply immediately.

More information can be found about [exemptions](#) on the GOV.UK website.

If a property is sold, any registered exemption by the previous owner is not transferable to the new owner, who will be required to improve the property or register their own valid exemption.

Enforcement

The onus is on the business to ensure the property meets the MEES standards or to register a valid exemption. The council is responsible for enforcing the MEES Regulations (Regulation 34) and investigating potential breaches.

Compliance notice

There are two different forms of non-compliance with the Regulations:

- Where the property is sub-standard with an EPC rating of F or G, and a new tenancy has been granted, a tenancy renewed, or an existing tenancy agreement extended (breach of Regulation 23);
- Where the business has registered false or misleading information on the PRS Exemptions Register or has failed to comply with a compliance notice.

Where there is a breach, we may serve a compliance notice.

Contents of compliance notice

A compliance notice may require copies or originals of:

- The EPC that was valid for the time that the property was let;
- Any other EPC for the property;
- The current tenancy agreement;
- Any qualifying assessment for the property;
- Any other relevant document that we require to carry out our compliance and enforcement functions.

In addition, the notice may also require the business to register copies of the requested information on the PRS Exemptions Register.

The compliance notice will specify:

- The name and address of the officer that the business must send the information to;
- The time period for compliance - at least one calendar month.

A business must comply with the compliance notice by sending the requested information to us and provide copies of original documents. Failure to provide documents or information

requested by a compliance notice, or failure to register information on the PRS Exemptions Register as required by a compliance notice may result in a penalty notice being served.

We may withdraw or amend the compliance notice at any time, for example where new information comes to light.

A compliance notice can be served up to 12 months after the suspected breach. A notice may be sent in hard copy format or electronically.

Duty of private landlords to comply with a Compliance Notice

Under Regulation 37(4), a private landlord must comply with any Compliance Notice served on them by the council. They must also allow the council, when requested, to see and take copies of original documents.

Penalties

Where we decide to impose a financial penalty, we have discretion to decide on the amount of the penalty up to the maximum limits set by the Regulations. Our [Private Sector Housing Enforcement Policy 2023](#) makes provision for us to impose a financial penalty under the Regulations, as follows.

The maximum penalty amounts apply per property and per breach of the Regulations. They are:

- a) Up to £2,000 and/or publication penalty for renting out a non-compliant property for less than three months;
- b) Up to £4,000 and/or publication penalty for renting out a non-compliant property for three months or more;
- c) Up to £1,000 and/or publication for providing false or misleading information on the PRS exemptions register;
- d) Up to £2,000 and/or publication for failure to comply with a compliance notice.

We may impose a financial penalty under either paragraph a) or paragraph b) above in relation to the same breach of the Regulations.

We may impose a financial penalty under either paragraph a) or b), together with financial penalties under paragraphs c) and d) in relation to the same breach.

The maximum amount of the fine is £5,000 per property and per breach of the Regulation. However, if after being previously fined for up to £5,000 or having failed to satisfy the requirements of the Regulations, the business proceeds to unlawfully let a sub-standard property on a new tenancy, we may again levy financial penalties up to £5,000 in relation to the new tenancy.

Determination of the level of financial penalty

In line with the Private Sector Housing Enforcement Policy and Civil Penalty Policy, the financial penalty should be proportionate and reflect the severity of the breach and set high enough to ensure there is an economic impact on the business to demonstrate the consequences of not complying with their responsibilities. Where we decide to impose a financial penalty, we will apply the following penalties:

Breach:

- a) Breach of prohibition to let a sub-standard property for less than three months

Penalty: Up to £2,000 and/or publication penalty

	First Penalty	Early payment within 21 days
First Breach	£1,000	£750
Other breaches	£2,000	£1,500

- b) Breach of prohibition to let a sub-standard property for three months or more

Penalty: Up to £4,000 and/or publication penalty

	First Penalty	Early payment within 21 days
First Breach	£2,000	£1,500
Other breaches	£4,000	£3,000

- c) Registering false or misleading information on the PRS Exemptions Register

Penalty: Up to £1,000 and/or publication penalty

	First Penalty	Early payment within 21 days
First Breach	£500	£375
Other breaches	£1,000	£750

- d) Failing to comply with a compliance notice

Penalty: Up to £2,000 and/or publication penalty

	First Penalty	Early payment within 21 days
First Breach	£1,000	£750
Other breaches	£2,000	£1,500

It is important to note that the maximum penalty amounts apply per property, and per breach of the Regulations.

Publication penalty

A publication penalty means that we will publish some details of the breach on the publicly accessible part of the PRS Exemptions Register. We can decide how long we will leave the information there, but it will be available for view for at least 12 months.

All breaches will be registered for a period of three years.

The information that the Council may publish is:

- the landlord's name (except where the landlord is an individual);
- details of the breach; and
- the address of the property in relation to which the breach occurred; and the amount of any financial penalty imposed.

The Council may decide how much of this information to publish. However, we may not place this information on the PRS Exemptions Register while the penalty notice could be, or is being reviewed by the Council, or while their decision to uphold the penalty notice could be, or is being, appealed.

Penalty notice

Where we decide to impose a financial and/or publication penalty, we may serve a penalty notice in respect of an ongoing breach, or one that occurred in the last 18 months. It will set out:

- The provision of the Regulations that we believe have been breached;
- Details of the breach;
- The action we require the business to take to remedy the breach and the timescale in which it must be taken;
- The amount of financial penalty imposed and how it has been calculated;
- Whether a publication penalty has been imposed;
- The date by which payment must be made (at least one month);
- The name and address of the person to who it must be paid and payment method;
- The review and appeals process;
- Explain that if the financial penalty is not paid within the specified period, we may bring court proceedings to recover the funds.

Where the business fails to take the action required by a penalty notice, we may serve a further penalty notice.

Right to request a review of the decision to serve a penalty notice

A business has the right to ask for a review of the decision to serve a penalty notice, with the request being made in writing. The penalty notice must state how long they have to make this request and who it must be sent to. This period will be 28 days from the date of the notice.

If we receive a request for a review, we must consider everything in the request and decide whether or not to withdraw the penalty notice. We must withdraw it if:

- We are satisfied that the business has not committed the breach in the penalty notice;
- We believe a breach has been committed but where we are satisfied that the business took all reasonable steps and exercised all due diligence to avoid committing the breach; or
- We decide that because of the circumstances of the case, it was not appropriate for the penalty notice to be served.

We may decide not to withdraw the penalty notice, but we may decide to:

- Waive or reduce the penalty;
- Allow additional time to pay;
- Modify the publication penalty.

We must explain the appeals process and how financial penalties can be recovered.

Once we have made a decision, we must notify the business of our decision at the earliest opportunity.

Every decision to confirm a penalty notice following a request for a review will be considered by the Private Sector Housing Manager who will assess the written representations received. The assessment will be passed to the Head of Housing Options to make a final decision.

A request for review should be made in writing to:

fpn.representations@gravesham.gov.uk

Appeals

Where a notice of decision to confirm a penalty notice has been confirmed, a business may appeal to the First-tier Tribunal on the grounds that:

- The penalty notice was based on an error of fact or law;
- The penalty notice does not comply with a requirement imposed by the Regulations;
- It was inappropriate to serve a penalty notice on them in the particular circumstances.

Appeals must be submitted within 28 calendar days from the date of our decision, and once made, the penalty notice is suspended until the appeal has been determined or withdrawn.

The First-tier Tribunal has the power to quash or affirm the penalty notice.

The address and contact details are:

First-Tier Tribunal, General Regulatory Chamber, HM Courts and Tribunals Service, PO Box 9300, Leicester LE1 8DJ

Email grc@justice.gov.uk Telephone 0300 123 4504

The address of the First-tier Tribunal may change from time to time, but the latest address will be detailed on any Notice of Decision served and can be found on [GOV.UK's First-tier Tribunal page](#).

Unpaid financial penalties

We will take robust action to recover any financial penalty (or part) not paid within the time period set out in the penalty notice.

If an offender does not comply with an order of the court, the council will usually make an application to enforce the judgement. The type of enforcement action pursued would depend on the circumstances of the case and the amount owed. The most likely types of enforcement action are shown below.

Court bailiffs: A court bailiff will ask for payment. If the debt is not paid, the bailiff will visit the offender's home or business address to establish whether anything can be seized and sold to pay the outstanding debt.

Charging order - Order of sale: The council can apply to place a charging order on any property owned by the offender. If a debt remains outstanding after a charging order has been registered, the council can make an application for an order of sale. The property would then be subject to an enforced sale and the proceeds used to settle the debt owed to the council.

Attachment to earnings order: If the offender is in paid employment, the council can apply to the court for an attachment to earnings order. Such an order would require the offender's employer to make salary deductions. Amounts would be deducted regularly at the direction of the court until the debt owed to the council has been fully discharged.

Help and Advice

If you would like further advice or clarification, the Private Sector Housing Team can help. Please contact us if you have any queries:

Private Sector Housing Team
Gravesham Borough Council
Civic Centre
Windmill Street
Gravesend
Kent DA12 1AU

Tel No: 01474 337960 or E-mail: private.housing@gravesham.gov.uk

Making a complaint

The Private Sector Housing Team aims to provide the best possible service. However, if you are not happy with the service you receive you can make a formal complaint.

More information about how to make a formal complaint can be found on [the complaints page on council's website](#).

Review of Policy

This policy will be reviewed annually and updated where necessary, to consider and take into account any legislative and policy changes.